

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ALPHA PHI ALPHA FRATERNITY
INC., a nonprofit organization on
behalf of members residing in Georgia;
SIXTH DISTRICT OF THE
AFRICAN METHODIST
EPISCOPAL CHURCH, a Georgia
nonprofit organization; ERIC T.
WOODS; KATIE BAILEY GLENN;
PHIL BROWN; JANICE STEWART,

Plaintiffs,

vs.

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of Georgia.

Defendant.

Case No. 1:21-cv-5337

PLAINTIFFS' SECOND UNOPPOSED MOTION FOR JUDICIAL NOTICE

Pursuant to Rule 201(b)(2) of the Federal Rules of Evidence, the Alpha Plaintiffs respectfully request that for the purposes of the ongoing preliminary injunction hearing the Court take judicial notice of the facts herein pertaining to the dates of recent Georgia general primary and general primary runoff elections reported by the Georgia Secretary of State. Plaintiffs conferred with Defendant, who does not oppose this motion.

ARGUMENT

Federal Rule of Evidence 201 requires courts to grant requests for judicial notice of relevant adjudicative facts that are “not subject to reasonable dispute because [they] can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2); *see also* Fed. R. Evid. 401 (setting forth the test for relevance). This includes accurate data published on an official government website. *See, e.g., Common Cause Ga. v. Kemp*, 347 F. Supp. 3d 1270, 1297 (N.D. Ga. 2018) (taking judicial notice of information available on the website of Georgia’s Secretary of State); *Johnson v. Wells Fargo & Co.*, 2020 WL 10054621, at *5 n.3 (N.D. Ga. Sept. 25, 2020) (same); *Mont. Green Party v. Jacobsen*, 17 F.4th 919, 927 (9th Cir. 2021) (taking judicial notice of election-related information from Department of State website); *Support*

Working Animals, Inc. v. DeSantis, 457 F. Supp. 3d 1193, 1203 n.1 (N.D. Fla. 2020) (same).

The dates and results of prior Georgia elections are official data compiled by the Georgia Secretary of State and available on its website.¹ Because this information is readily available on a public government website and cannot reasonably be questioned it is subject to judicial notice. Plaintiffs thus move for judicial notice of the dates of recent Georgia general primary elections listed below.

Year of General Election	Date of General Primary Election	Date of General Primary Runoff Election
2000	July 18	August 8
2002	August 20	September 10
2004	July 20	August 10
2006	July 18	August 8
2008	July 15	August 5
2010	July 20	August 10
2012	July 31	August 21
2014	May 20	July 22
2016	May 24	July 26

¹ See *Current and Past Election Results*, Ga. Sec'y of State, https://sos.ga.gov/index.php/Elections/current_and_past_elections_results.

2018	May 22	July 24
2020	June 9	August 11

Furthermore, the information for which Plaintiffs seek judicial notice is unquestionably relevant to a claim before this Court. “Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” Fed. R. Evid. 401. The dates of prior primaries are unquestionably “of consequence in determining” the possible forms of equitable injunctive relief that this Court might provide, up to and including shifting the dates for the 2022 Georgia primary elections later in the calendar. *See* Plaintiffs’ Supplemental Memorandum, *Alpha Pi Alpha v. Raffensperger*, No. 1:21-cv-5337 (N.D. Ga. Feb. 9, 2022), ECF No. 98.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant their request for judicial notice.

Dated: February 14, 2022.

Respectfully submitted,

/s/ Rahul Garabadu
Sean J. Young (Bar 790399)

/s/ Sophia Lin Lakin
Sophia Lin Lakin

syoun@acluga.org
Rahul Garabadu (Bar 553777)
rgarabadu@acluga.org
ACLU FOUNDATION OF GEORGIA,
INC.
P.O. Box 77208
Atlanta, Georgia 30357
Telephone: (678) 981-5295
Facsimile: (770) 303-0060

/s/ Debo Adegbile

Debo Adegbile
debo.adegbile@wilmerhale.com
Robert Boone
robert.boone@wilmerhale.com
Abigail Shaw
abby.shaw@wilmerhale.com
Alex W. Miller
alex.miller@wilmerhale.com
Cassandra Mitchell
cassie.mitchell@wilmerhale.com
Maura Douglas
maura.douglas@wilmerhale.com
Samuel Weitzman
samuel.weitzman@wilmerhale.com
WILMER CUTLER PICKERING HALE
AND DORR LLP
250 Greenwich Street
New York, New York 10007
Telephone: (212) 230-8800
Facsimile: (212) 230-8888

/s/ Edward Williams

Anuradha Sivaram
anuradha.sivaram@wilmerhale.com
Edward Williams
ed.williams@wilmerhale.com
De'Ericka Aiken

slakin@aclu.org
Ari J. Savitzky
asavitzky@aclu.org
Jennesa Calvo-Friedman
jcalvo-friedman@aclu.org
ACLU FOUNDATION
125 Broad Street, 18th Floor
New York, New York 10004
Telephone: (212) 519-7836
Facsimile: (212) 549-2539

/s/ George P. Varghese

George P. Varghese
george.varghese@wilmerhale.com
Denise Tsai
denise.tsai@wilmerhale.com
Tae Kim
tae.kim@wilmerhale.com
WILMER CUTLER PICKERING HALE
AND DORR LLP
60 State Street
Boston, Massachusetts 02109
Telephone: (617) 526-6000
Facsimile: (617) 526-5000

/s/ Charlotte Geaghan-Breiner

Charlotte Geaghan-Breiner
charlotte.geaghan-breiner@wilmerhale.com
WILMER CUTLER PICKERING HALE
AND DORR LLP
2600 El Camino Real
Suite 400
Palo Alto, CA 94306
(650) 858-6000 (t)
(650) 858-6100 (f)

ericka.aiken@wilmerhale.com

Ayana Williams

ayana.williams@wilmerhale.com

WILMER CUTLER PICKERING HALE
AND DORR LLP

1875 Pennsylvania Ave. NW

Washington, D.C. 20006

Telephone: (202) 663-6000

Facsimile: (202) 663-6363

Counsel for Plaintiffs

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

/s/ *Rahul Garabadu*

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served the foregoing *Plaintiffs' Second Unopposed Motion for Judicial Notice* with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all counsel or parties of record on the service list:

This 14th day of February, 2022.

/s/ Rahul Garabadu